IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 24TH SEPTEMBER 2007 / 2ND ASWINA 1929

Bail Appl..No. 5737 of 2007()

CMP.2045/2007 of ADDL.DISTRICT COURT-I,MAVELIKKARA
CRIME NO.546/07 OF KAYAMKULAM POLICE STATION

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PETITIONER/ST ACCUSED

REJANI, D/O. RAVEENDRAN,
USHA BHAVANAM, NJAKANAL.

BY ADV. SRI.R.REJI

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY THE
CHIEF SECRETARY, THIRUVANANTHAPURAM,
THROUGH THE SUB INSPECTOR OF POLICE,
KAYAMKULAM BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 5737 OF 2007

Dated this the 24th day of September, 2007

ORDER

Application for anticipatory bail. The petitioner is the 1st accused. Two of the co-accused have already been granted anticipatory bail. The petitioner faces allegations, inter alia, under Secs.468 and 471 of the IPC.

2. The husband of the petitioner is the de facto complainant. The crux of the allegations against the petitioner is that she misused a blank cheque leaf of her husband, forged the signature of the husband, got the same presented through some other person who pretended to be the husband of the petitioner and siphoned out the funds from the bank account of the husband. A crime has been registered. Investigation is in progress. The petitioner apprehends imminent arrest.

3. The learned counsel for the petitioner submits that

the petitioner is absolutely innocent. The co-accused have already been granted anticipatory bail. The petitioner is willing to surrender before the Investigating Officer or the learned Magistrate. She may be granted anticipatory bail, it is prayed.

4. The learned Public Prosecutor opposes the application. The co-accused were granted anticipatory bail on account of the doubt/inadequacy on the crucial aspect as to who had made use of the cheque leaves and pretended to be the husband of the petitioner. The petitioner has to be interrogated closely. An attempt must be made to ascertain the truth. The persons who in collusion with the petitioner presented the cheque pretending to be the husband of the petitioner and collected the amount have to be identified. In these circumstances, it would be inexpedient and unnecessary to permit the petitioner arm herself with an order of anticipatory bail. The police may be given an opportunity to interrogate the petitioner. This application for anticipatory bail may be dismissed, submits the learned Public Prosecutor.

5. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. That the co-accused, who stand on the entirely different footing, were granted anticipatory bail is certainly no reason to justify the

prayer for anticipatory bail of the petitioner. I find no features in this case which can justify the invocation of the extraordinary equitable discretion under Sec.438 of the Cr.P.C. I agree with the learned Public Prosecutor that the petitioner must appear before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal course.

6. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge